

The 12th/15th October, 1982

No. 9(1)82-PV-6Lab/9993.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Suraj Lamps and Industries Pvt. Ltd. Plot No. 65-A; NIT, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA FARIDABAD.

Reference No. 261/1982.

between

THE WORKMEN AND THE MANAGEMENT OF M/S SURAJ LAMPS AND INDUSTRIES
PVT. LTD., PLOT NO. 65-A, N. I. T., FARIDAFAD.

Present.—

Shri R. C. Sharma, for the management.

Nemo, for the workman.

AWARD

The Governor of Haryana referred the following dispute between the management of M/s Suraj Lamps and Industries Pvt. Ltd., Plot No. 65-A, N. I. T. Faridabad and its workmen, by order No. ID/FD/135/82/35380, dated 29th July, 1982 to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the appointment letters should be issued to the workmen ? If so, with what details ?

Notices of the reference were sent to the parties. On the date fixed, the management was present but the workmen did not appear despite service. Shri R. C. Sharma, representative of the management made a statement that the management had already issued appointment letters to their employees and if any individual had not received it he could collect the same.

In view of the above, I pass my award that the workmen were entitled to the appointment letters.

Dated the 15th September, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 1005, dated 22nd September, 1982:

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-PV-6Lab/9994.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Paul Rubber Works Plot No. 9, NIT, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 91/1982

between

SHRI JAGATARI LAL WORKMAN AND THE MANAGEMENT OF M/S PAUL
RUBBER WORKS, PLOT NO. 9, N. I. T., FARIDABAD.

Present.—

Shri Manohar Lal, for the workman.

Nemo, for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Jagtari Lal and the management of M/s Paul Rubber Works, Plot No. 9, N.I.T., Faridabad, by order No. ID/FD/22/82/10660, dated 12th March, 1982, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Jagtari Lal was justified and in order ? If not, to what relief is he entitled ?

Notice of the reference were issued to the parties. The workman appeared but the management refused to receive the notice of the case. Therefore, a U. P. C. notice under rule 18 of the Industrial Disputes Pnnjab Rules, 1958 was also sent but the management failed to appear despite it. The management was produced *ex parte* and the case was fixed for the evidence of the workman. In evidence the workman deposed that he worked in the respondent factory for the last 23-24 years. His work was satisfactory and his salary was Rs. 285/- per month. The management had terminated his service without any reason, charge-sheet and enquiry.

Believing the *ex parte* statement of the workman, I find that the order of termination of service was wrongful. Therefore, I give my award that the workman is entitled to his reinstatement with full back wages,

M. C. BHARDWAJ,

Dated the 14th September, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 1006, dated the 22nd September, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9 (1)82-PV-6Lab/10002.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Dhabiwala Steel & Engineering Works, Plot No. 136, Sector 24, Faridabad :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 31/1982

between

SHRI CHALITRA SINGH, WORKMAN AND THE MANAGEMENT OF M/S DABRIWALA
STEEL & ENGINEERING WORKS PLOT NO. 136, SECTOR-24, FARIDAPAD

Present : —

Shri B. M. Gupta, for the management.

Shri S. P. Gaur, for the workman.

AWARD

The Government of Haryana referred the following dispute between the workman Shri Chalitra Singh and the management of M/s Dabriwala Steel and Engineering Works, Plot No. 136;

Sector-24, Faridabad; by order No. ID/FD/186/81/1952, dated 1st January, 1982, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Chalitra Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties the following issues were framed by my order, dated 12th May, 1982:—

- (1) Whether the claimant was in the employment of management? If not, to what effect?
- (2) Whether the termination of services of Shri Chalitra Singh was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the workman on issue No. 1. The concerned workman examined himself as WW-1 and the management examined Shri Ashok Kumar Saxena, Time Office Incharge of respondent factory as MW-1 and the case was fixed for arguments. On the date fixed, the representative of the workman made a statement that he withdrew the case because he had no proof to show that the workman was an employee of the company.

In view of the above, I pass my award that there was no dispute between the parties.

Dated the 14th September, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 1014, dated the 22nd September, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-PV-6Lab/10009.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Technological Consultants Centre, Sector 10, Faridabad.

BFFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 584/1978

between

THE WORKMEN AND THE MANAGEMENT OF M/S TECHNOLOGICAL
CONSULTANTS CENTRE, SECTOR 10, FARIDABAD

Present:—

Shri Parshotam Dass, for the workmen

Shri R. C. Sharma, for the management.

AWARD

The Government of Haryana referred the following dispute between the management of M/s Technological Consultants Centre, Sector 10, Faridabad and its workmen, by order No. ID/FBD/95/78/55485, dated 13th December, 1978 to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947:—

Whether the workmen are entitled to bonus for the years 1975-76, 1976-77 and 1977-78 @ 20%? If so, with what details?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor,—vide order dated 22nd June, 1979:—

- (1) Whether the workmen are entitled to the grant of bonus for the years 1975-76, 1976-77 and 1977-78? If so, at what rates?

The workman examined Shri B. C. Panday workman as WW-1 and Shri M. V. Joshi, workman as WW-2. The management examined Shri Vinod Kumar, Company Secretary as MW-1. Arguments were heard.

WW-1 deposed that he was working in factory from 1976. He was president of the union. There was a settlement regarding bonus with the management. Copy was Ex.W-1. The management used to give the bonus in the shape of *ex gratia* payment. The company started in 1974. In cross-examination, he replied that it was told to workers that the profit was transferred to Y.M.C.A. Institute of Engg., Faridabad. WW-2 deposed that he joined this company in 1977. He had received twice in the shape of bonus at the rate of 13% and 18%. In cross-examination, he replied that he received the above payment,—*vide* settlement Ex.W-1 and W-2.

MW-1 deposed that he had brought memorandum of association of the company. Copy was Ex.M-1. There was no share holder in the company. Although it was registered under the company Act. In the company, finance of Haryana Government; Government of India, Y.M.C.A. of Germany was invested. It was a non-profit earning company. Therefore, there was no question to payment of dividend. At present there were 12 directors of the company i.e. three from Haryana Government, one from Central Government and six from Y.M.C.A., Chairman and Vice-Chairman recommended by the Board. Company were exempted from Income Tax. Exemption certificate was Ex.M-2. The certificate for exemption under Company Act was Ex.M-3. Registration certificate was Ex.M-4. List of directors was Ex.M-5. Profit & Loss account and Balance sheets were Ex.M-6 to M-9. Certificate Ex.M-10 was signed by him. Other Copies of balance sheets were Ex.M-11 to M-13. Profit was transferred to Y.M.C.A. Institute which was a engineering institution giving training in engineering to students. The agreement of such transfer was Ex.M-13. In cross-examination, he replied that the company was started in 1975 whereas he entered in the company in 1981. He did not know the year when it was started in Y.M.C.A. He admitted that there was settlement between T.C.C. and its union. He admitted that the centre was registered under the Factories Act. The minimum Wages Act, Gratuity Act and other Labour Acts were applicable to the Centre. The Staff of Centre had no connection with Y.M.C.A. Only Lecturers of Y.M.C.A. visited the Centre alongwith trainee Student. There were about 225 persons in the centre. It runs two shifts. He admitted that private orders are also carried by the Centre. He also admitted that the Centre manufactured special purpose machine, press tools and moulding dies etc. He denied the suggestion that a part of profit was spent over the Centre,

I have considered the arguments of the learned representative of the parties. I have also gone through the documents, I find from the Memorandum and Article of Association-Clause V(2) that "No portion of the income or property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to persons who at any time are or have been members of the Association or to any person or more of them or to anyone or more of them to any person, claiming through any of them". It was also mentioned that T.C.C. Association was not for profit. Its main objects were argued for imparting education and, for training to the trainees workshop, factories, mills or other organisation in any part of India in such line or lines etc. According to Ex.M-3 Licence under Section 25 of the Companies Act from appliance its profits or other income, payment of any dividend to its members. The company was also exempted to use of words "limited" or "private limited". The conditions were also laid with regard to restriction of payment of remuneration or other benefit of money of the company. As regards the contention regarding settlement to the union, it was given in para No. 3 of the Ex.W-1 which is as under :—

"It is agreed between the parties that the issue of bonus remains open and the Government may refer it for adjudication and both the parties will have legal recourse in this respect. However, it is also agreed that during the pendency of the adjudication on the Issue of Bonus, the workers will not resort to any representation or agitation".

Therefore the question about payment of bonus remain at large and the management did not concede the liability of payment of bonus. My attention was drawn to section-32 (v)(a) of the Payment of Bonus Act which states nothing in this Act shall apply (v)(c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit. I am convinced that the Centre was exempted from payment of bonus. It is; therefore, unnecessary to go into balance sheet and profit and loss accounts of the Centre.

I, therefore, pass my award that workmen were not entitled to the grant of bonus under the Payment of Bonus Act.

Dated, the 13th September, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endst. No. 1021, dated 22nd September, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.